

	<b>Administrative Regulation</b>  <b>No Harassment &amp; Discrimination</b>	<b>Policy #</b>	03.07.14
		<b>Effective Date:</b>	October 25, 2021
		<b>Revision Date:</b>	N/A
		<b>Owner:</b>	Human Resources

### **Purpose:**

To create and maintain a work-place environment which all individuals are treated with respect and dignity.

### **Scope:**

This regulation applies to all employees, interns, volunteers, and elected officials, hereby stated as 'employees'.

### **Policy:**

The City of Springfield prohibits all forms of harassment, sexual assault, or discrimination in and outside of the workplace that violates its employees' or its contractors, and visitors right to a harassment-free workplace. Specifically, the City prohibits harassment or conduct related to an individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of all forms of harassment, sexual assault, or discrimination. Further, all employees are responsible for respecting the rights of other employees and to refrain from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or with Human Resources, at any time if they have questions relating to the issues of discrimination or harassment.

### **Procedure:**

#### **1. Complaint Procedure**

- 1.1. Routine workplace issues, ordinary differences of opinion, performance management or reviews, or other matters should be reported and managed through the employee's department management team, unless the matter involves the complainant's management chain.
- 1.2. Employees, volunteers or interns who have experienced harassment, sexual harassment, sexual assault, or discrimination in violation of this policy, or who have witnessed such

behavior, or who have credible information about such behavior occurring, are expected and should bring the matter to the attention of the Director of Human Resources, City Manager, or a supervisor or member of management as soon as possible.

1.3. Employees are strongly encouraged to document the information or incident in any written, recorded or electronic format.

1.4. An employee who experiences or witnesses any form of harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that they want it to stop.

## 2. Investigations and Confidentiality

2.1. All complaints and reports will be impartially investigated as quickly as possible and will be kept confidential to the extent possible, consistent with the City's need to investigate the complaint, follow applicable law, and address the situation.

2.2. If conduct in violation of this policy is found to have occurred, the City will take appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

## 3. Additional Complaint Options

3.1. In addition to the City's complaint reporting procedures, employees may file a formal grievance in accordance with their collective bargaining agreement, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil.

3.2. Although the City cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121 (five years). Further, before an employee can take any legal action against the City, the employee must provide written notice of the claim within 180 days of the act or omission the employee claims has caused them harm. When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee include enforcement of a right, imposition of a penalty, or issuance of an order to the employee's employer (in limited circumstances).

## 4. Protection Against Retaliation

4.1. The City prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing or discriminatory conduct, or has participated in an investigation of such conduct.

- 4.2. Employees who believe they have been retaliated against in violation of this policy should immediately report it to the Director of Human Resources, City Manager or any supervisor or member of management. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

## 5. Additional Resources Available to Employees

- 5.1. The City provides an Employee Assistance Program (EAP) through Cascade Health to employees and dependents who are enrolled in the City's medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free: (541) 228-3000, or go online [cascadehealth.org](http://cascadehealth.org). The EAP program provides confidential counseling services and educational tools.
- 5.2. The City cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

## 6. Nondisclosure or Non-disparagement Agreements

- 6.1. Nothing in this policy is intended to diminish or discourage an employee who has experienced any form of workplace harassment or discrimination, or sexual assault, from talking about or disclosing their experience.
- 6.2. The City is committed to creating and maintaining a workplace free of any form of harassment, sexual assault, discrimination, or retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the City to inform employees that if they have been aggrieved by workplace harassment, discrimination, or sexual assault and want to enter into an agreement with the City regarding their experience and/or employment status, the employee should contact Human Resources.
- 6.3. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation.
- 6.4. If the City and employee do reach an agreement, the City will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the City or making comments that would lower the City in rank or reputation).
- 6.5. If, however, the employee makes a request for an agreement under this section, nondisclosure, non-disparagement, and no re-hire are terms that the City and the

employee may agree to. The employee will have seven days to revoke the agreement after signing it.

## **Definitions**

1. *"Discrimination"* is making an employment decision related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment based upon, or because of an employee's protected class status.
2. *"Harassment"* is any unwelcome, hostile, intimidating, threatening, humiliating or any violet behavior against an individual based on the individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Such harassment may include verbal, written or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual's protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
- Negative stereotyping;
- Displaying racist symbols anywhere on City property;
- "Teasing" or mimicking the characteristics of someone with a physical or mental disability;
- Criticizing or making fun of another person's religious beliefs, or "pushing" your religious beliefs on someone who doesn't have them;
- Threatening, intimidating, or hostile acts that relate to a protected class or protected activity; or
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.

This is not a complete list. All employees are expected to exercise common sense and refrain other similar kinds of conduct.

3. *"Nondisclosure Agreement"* is a contract through which an employee and the City agree not to prohibit the employee from discussing or communicating about their experiences in the workplace or the term of the agreement.
4. *"Non-disparagement Agreement"* is a contract which states that person in their role of an employee will not make negative comments about the City, its services, or leaders in any form of communication.

5. “*Retaliation*” is any conduct that would likely deter an individual from reporting or supporting a claim of harassment or discrimination.
6. “*Sexual Assault*” is any unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.
7. “*Sexual harassment*” is any form of workplace harassment that includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is “welcome”), when:
  - a. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual’s body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who identify as gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex. This is not a complete list.

8. “*Workplace*” includes when an employees are City property, at a city sponsored event off site event, traveling on behalf of the City or conduct City business, regardless of location.

## **Resources:**

### *Administrative Regulations:*

1. [Employee Assistance Program \(EAP\) Administrative Regulation](#)
2. [Reporting Improper or Unlawful Conduct Administrative Regulation](#)
3. [Open Door Policy Administrative Regulation](#)

### *Forms:*

1. [Complaint of Harassment Form](#)

### *Links:*

1. [Cascade Behavioral Health \(EAP\) website](#)

**CREATION (Original):**

This administrative regulation is in effect as of the date of my signature. I authorize the Human Resource Director to modify the history and resources sections and header, footer, and numbering without my reauthorization. The administrative regulation remains in effect should these revisions occur.			
<b>Approved By:</b>	Nancy Newton, City Manager	<b>Dates:</b>	10/28/2021
<b>Author:</b> Chaim Hertz, Director of Human Resources			
<b>Responsible Party:</b> Human Resources			
<b>Replaces:</b> Respectful Place to Work administrative regulations procedural section 1.			

**PERIODIC REVIEW:**

<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	

**REVISIONS:**

<b>Version #2:</b>	<b>Responsible Party:</b>			
	<b>Revised By:</b>			
	<b>Approved By:</b>		<b>Date:</b>	
	<b>Reason/Summary of Changes:</b>			